19536 **File No.** 354/36

B CLASS Public Works **DEPARTMENT**
El. **BRANCH**

Subject:— Electric Licence.

Assignment of an — to the heirs of the deceased —

Orders re:

B TK 11736

El.

File No. 354/36

Etd. Sdout. Slip. 21 A

G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. 354/36

P.W. **DEPT.**

E.I. **BRANCH.**

References :—

Date	To whom sent.	Notes and instructions.

No. 266-18XIII

GOVERNMENT OF CENTRAL PROVINCES.

COMMERCE AND INDUSTRY DEPARTMENT.

From,

A.L.Binney Esqr., I.C.S.
FINANCILA SECRETARY TO GOVT.,
CENTRAL PROVINCES.

To,

The Secretary to the Govt of B'bay,
BOMBAY.

Dated: Nagpur, the 29th Jan.36.

Subject:- ASSIGNMENT OF AN ELECTRICITY LICENSE TO THE HEIRS OF THE DECEASED LICENSEE.

Sir,

The successors of a deceased license who was supplying electrical energey toa town in this province have applied to this Government for the substitution of their names in the license held by the deceased on the ground that the late licensee did not assign the license to anybody and, as his heirs, they are entitled to step into the position of the deceased licensee.

This Govt. have been advised that the application must be treated as a freah application and the full procedure followed or else Section 4(3) (b) of the Act should be employed to carry out the required change in the definition of "the licensee" contained in clause 2(b) of the license.

I am to request that if the Govt. of Bombay has no objection this Govt. may kindly be informed of the procedure followed in such cases in your province.

I have the honour to be.

Sir,

Your most obedient servant.

Sd/-

Financial Secretary.

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Office of the R.L.A.

The question referred to the Remembrancer of Legal Affairs for opinion in this case is whether there is any legal objection to define the term "licensee" in licenses for the supply of energy granted under the Indian Electricity Act, 1910, so as to include in it his heirs, successors, executors or permitted assigns.

2. The Local Govt. is empowered to grant the license in virtue of the provisions of section 3 of the Indian Electricity Act, 1910. That section lays down that the Local Govt. may grant the license to any person, on application made in the presecribed form and on payment of the prescribed fee (if any). "Person" is not defined in this Act. Person as defined in section 3(39) of the General Clauses Act, 1897, includes any company or association or body of individuals whether incorporated or not. 'Prescribed' means prescribed by rules made under the Act (section 2(j) ofthe Electricity Act.). Rule 9 of the Indian Electricity Rules, 1922, made by the Govt. of India in exercise of the powers conferred by section 37 of the Act, requires that every application for a license shall be accompanied by six copies in print of the draft license as proposed by the applicant. Rule 12 of these Rules states that the form of draft license set forth in Annexure III to these Rules may be used forthe purposes of Rule 9. The draft form set out in Annexure III to the rules provides that the expression 'licensees' shall mean and include the applicant and his permitted assigns, only. These provisions do not, therefore, empower the Local Govt. to define the liecensee to include his heirs, successors and eexecutors. A license is also granted on grounds of personal suitability to the licensee and as there can be no guarantee that a licensees heirs, successor or executors will be deserving of the licens as himself, such persons cannot necessarily be included within the scope of the expression 'licensee'.

Sd/-
Remembrancer of Legal Affairs.

U.O.R. TO THE PLW.D. No. 2338, dated the 17th April 1936.

(M.B.) SUBMITTED.

2. In view of the opinion ~~genuine~~ given by the R.L.A. the proposal made in para 3 of the O.N. dated 12/2/36 may be dropped and the papers may be filed after . U.O.R. TO THE EL.ENG.TO GOVT. ~~to the O.N.~~ ID:

U.O.R. TO ~~P.W.D. ID:~~ the El. Engr. to Govt. 27/4

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